

FEB 19 2008

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR 5878

DATE COMPLAINT FILED: 11/6/06

DATE OF NOTIFICATION: 11/14/06

DATE OF LAST RESPONSE: 1/3/07

DATE ACTIVATED: 4/4/07

STATUTE OF LIMITATIONS: 7/11/10

COMPLAINANT:

Arizona Republican Party, Matt Salmon, Chairman

RESPONDENTS:

**Arizona State Democratic Central Committee, and
Rick McGuire, in his official capacity as treasurer**

Arizona Democratic Party-North Carolina Account

**Pederson 2006, and Jeff Marella, in his official
capacity as treasurer**

Jim Pederson

RELEVANT STATUTES:

2 U.S.C. § 431(20)(A)

2 U.S.C. § 434(e)(2)

2 U.S.C. § 441a(a)(4)

2 U.S.C. § 441b(b)(2)(C)

2 U.S.C. § 441i(b)(2)

11 C.F.R. § 100.24

11 C.F.R. § 300.30

11 C.F.R. § 300.33(a)

11 C.F.R. § 300.33(c)

11 C.F.R. § 300.34(a)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

This matter involves allegations that the Arizona State Democratic Central Committee ("ASDCC") utilized nonfederal funds originating from the personal assets of Jim Pederson, the 2006 Democratic candidate for the U.S. Senate from Arizona, to fund federal election activity in violation of 2 U.S.C. § 441i(b). Specifically, it is alleged that Pederson made over \$1,000,000 in donations to ASDCC's nonfederal account during the 2006 election cycle, and that a portion of these nonfederal funds were used to fund federal election activity ("FEA") in violation of the Federal Election Campaign Act, as amended ("the Act"). The complaint alleges that the Pederson donations were used to fund FEA in two different ways. First, it is alleged that a portion of the Pederson contributions was used by the ASDCC nonfederal account to pay for a vote-by-mail campaign, which constitutes FEA, and should have been funded out of a federal account. Further, it is alleged that approximately \$480,000 in nonfederal funds donated by Pederson were transferred to other state Democratic Party committees' nonfederal accounts in exchange for transfers of federal funds back to the ASDCC, and that the receipts were then used to pay for FEA in circumvention of the Act's contribution limits.

Respondents generally deny that Mr. Pederson's donations were used to fund federal election activity. However, ASDCC does not offer any rebuttal to or explanation for information indicating that nonfederal funds were used in connection with the vote-by-mail program. Mr. Pederson, a former chairman of the ASDCC with a long history of contributing to the organization, claims that he did not instruct the ASDCC on how to use his nonfederal contributions. Further, while the ASDCC acknowledges that its transfers to other state party committees were part of pre-arranged "swaps" of nonfederal for federal funds, it claims that there are no limits on the amounts of federal or nonfederal funds that state party committees can

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1 transfer to each other. ASDCC maintains that the federal funds it received from these transfers
2 were properly segregated and permissibly used.

3 As more fully set forth below, we recommend that the Commission find reason to believe
4 that the ASDCC violated 2 U.S.C. § 441i(b) by using nonfederal funds to pay for federal election
5 activity. We also recommend that no action be taken at this time as to ASDCC-North Carolina
6 Account, Pederson 2006, and Jeff Marella, in his official capacity as treasurer, and Jim Pederson.

7 **II. FACTUAL AND LEGAL ANALYSIS**

8 **A. Factual Background**

9 Jim Pederson, the Democratic candidate in the 2006 U.S. Senate election in Arizona, is a
10 real estate developer who served as chairman of the ASDCC from 2001 up to July 2006. He
11 resigned as chairman of the ASDCC shortly before announcing his candidacy for the Senate.
12 During his association with ASDCC, Mr. Pederson donated over \$7 million to the party and
13 ranked as the single biggest donor to any state political party in the 2003-04 election cycle,
14 contributing more than \$1.8 million.

15 Mr. Pederson donated approximately \$1,300,000 to the ASDCC between January 1, 2005
16 and November 2, 2006 in over 25 separate transactions. Both Pederson and the ASDCC
17 generally maintain that these 2006 cycle donations were not intended for any specific purpose
18 and the party could spend the money "at its own discretion." See Exhibit A to Pederson
19 Response (affidavit of James E. Pederson).¹ Mr. Pederson avers in his affidavit that his
20 contributions were never made "with the request, knowledge, intention, or expectation that the

¹ Nevertheless, information suggests that Mr. Pederson had some awareness of how at least a portion of his donations would be used. For instance, Mr. Pederson made 12 consecutive monthly donations to the ASDCC nonfederal account in 2006, each in the amount of \$8,500. The complaint asserts that these funds were used to pay the ASDCC's headquarters' rent. A review of the ASDCC's disclosure reports shows monthly rent payment to J & R Holdings VI, LLC in the amount of \$8,129. ASDCC disclosure reports confirm that Pederson continued to make these monthly contributions of \$8,500 every month in 2007.

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1 funds I contributed would be given to any other state party committee ... in order to exchange
2 my contribution for federally-permissible funds."

3 The complaint asserts that the current Chairman of the ASDCC acknowledged that some
4 of Pederson's nonfederal donations were used for a "vote-by-mail" program. The complaint
5 cites to a newspaper article stating that "[ASDCC Chairman] Wald said the [Pederson] money is
6 being used for programs including candidate training and a vote-by-mail campaign – but not for
7 Pederson". Complaint Exhibit A. The complaint alleges that the vote-by-mail program
8 constitutes a voter-registration or get-out-the-vote activity, which must be treated as federal
9 election activity that can be funded only with federal funds or "Levin" funds, but not with
10 nonfederal funds such as those donated by Pederson. The ASDCC response does not address the
11 allegation that the Pederson donations were used to fund a "vote-by-mail" program or whether
12 such a program constitutes federal election activity.

13 The complaint also alleges that some of the nonfederal funds donated by Mr. Pederson
14 were transferred to, or "swapped" with, other state party committees in exchange for transfers of
15 federal funds from those state party committees. For instance, on October 4, 2006, Pederson
16 donated \$94,000 to the ASDCC nonfederal account, and based on information disclosed on
17 ASDCC's state disclosure reports, these funds appear to have been part of a \$258,200 transfer of

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1 nonfederal funds to the North Carolina Democrats made on October 5, 2006.² On October 9,
2 2006, the North Carolina Democrats, in an apparent exchange for the nonfederal funds received
3 from the ASDCC, transferred \$225,000 in federal funds to the ASDCC.³ Two other transfers
4 were identified by the complaint. On March 30, 2006, the ASDCC sent \$110,000 in nonfederal
5 funds to the Indiana Democrats, who immediately transferred back \$100,000 in federal funds.
6 The final transaction involved an ASDCC transfer of \$115,000 to the South Dakota Democrats
7 on January 25, 2006, who in turn transferred back \$100,000 on February 6, 2006 in two separate
8 transactions of \$18,481 and \$81,519. Our review of ASDCC state reports did not identify any
9 other transfers to state party committees. The complaint characterizes these transactions as an
10 effort to circumvent the ban on the use of "soft money" imposed by BCRA. The complaint does
11 not make any specific allegations as to how the "swapped" federal receipts were used by the
12 ASDCC, other than to assert that they were impermissibly used for federal election activities.

13 The ASDCC's response argues that Mr. Pederson had a long history of contributing to
14 the ASDCC and that his 2006 contributions were consistent with his past giving, and do not
15 represent an intention to circumvent the law. They add that the nonfederal funds transferred by
16 the ASDCC were deposited into the nonfederal accounts of the other state committees and not

² Apparently in order to complete the transfer in compliance with North Carolina campaign finance law, the ASDCC registered an entity with the North Carolina State Board of Elections called the Arizona Democratic Party-North Carolina Account ("ADP-NCA"). The entity filed one disclosure report on which it reported and itemized \$258,200 in contributions from seven different individuals, including Pederson's \$94,000 contribution of October 4, 2006. All of the ADP-NCA's cash on hand, \$258,200, was transferred to the North Carolina Democratic Party-State on October 5, 2006. It appears that all of the transactions on this report are also reported on ASDCC's reports filed with the Arizona Secretary of State.

The ADP-NCA was named a respondent in this matter. The ASDCC responded on behalf of the ADP-NCA, explaining that the organization is a "separate reporting entity and bank account" of the ASDCC, and argued that it should not be treated as a separate respondent for the purposes of this Matter.

³ In a newspaper article, the Executive Director of the North Carolina Democratic Party, Caroline Valand, reportedly acknowledged the exchange and is quoted saying: "Why did we do it? Because we made a profit." *Stumping goes down to the wire*, Charlotte News Observer, November 7, 2006.

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1 used for federal election activity. They acknowledge that their receipt of the subsequent transfer
2 of federal funds amounted to a "swap" and that the practice is "controversial," but they claim
3 that it has been practiced for many election cycles.⁴ They note that under the Act, transfers
4 between state party committees are unlimited. The response points out that BCRA did
5 specifically prohibit state party committees from using funds received through transfers for
6 expenditures that are allocated with so-called "Levin funds," and that Congress could have
7 therefore also explicitly prohibited transfers for other uses, but did not do so. Finally, they note
8 that the transfers of Federal funds they received were deposited into a separate account to ensure
9 that the funds were used for permissible purposes.

10 The response filed on behalf of Mr. Pederson and his authorized committee reiterated
11 many of the same arguments made by the ASDCC, and included a short, sworn affidavit in
12 which Pederson attests that his nonfederal donations to the ASDCC were made with no "request,
13 knowledge, intention, or expectation" that the funds would be transferred.

14 **B. Discussion**

15 Nonfederal funds may not be used to pay for FEA. 2 U.S.C. § 441i(a) & (b)(1). Thus, if
16 the ASDCC's nonfederal account funded a vote-by-mail campaign with Mr. Pederson's
17 donations or any other nonfederal funds, the ASDCC would have violated the restrictions on
18 FEA funding at section 441i of the Act. Based on the allegations in the complaint concerning the
19 vote-by-mail campaign, there is reason to investigate the ASDCC's use of nonfederal funds for
20 FEA. Further, we also believe there is reason to investigate whether funds obtained in exchange

⁴ All of the newspaper articles cited by Respondents as proof that these swaps are commonplace were published before BCRA was enacted. Additionally, a major participant in the pre-BCRA swaps were the national parties, and it is clear that they can no longer "swap" since they can no longer receive nonfederal funds.

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1 for Mr. Pederson's nonfederal donations to the ASDCC were used to circumvent contribution
2 limitations and pay for FEA activities.

3 **1. Use of Nonfederal Funds for Vote-By-Mail Federal Election Activity**

4 The Act prohibits state party committees from using nonfederal funds to pay for federal
5 election activity. 2 U.S.C. § 441i(b). Federal election activity can be funded only by amounts
6 raised subject to the limitations, prohibitions and reporting requirements of the Act or in some
7 cases, from funds raised pursuant to 2 U.S.C. § 441i(b)(2) ("Levin funds").⁵ *Id.* Levin funds are
8 funds donated to a state, district or local party committee that comply with State laws and do not
9 exceed \$10,000 per contributor and which are used for certain limited purposes. 2 U.S.C.
10 § 441i(b)(2).

11 Federal election activity includes: (1) voter registration activities conducted during a
12 period beginning 120 days before the date of a regularly scheduled federal election and ending
13 on the date of the election; (2) voter identification, get-out-the-vote or generic campaign activity
14 conducted in connection with an election where a federal candidate appears on the ballot;⁶
15 (3) public communications referencing a clearly identified federal candidate which promote,
16 support, attack, or oppose the candidate; and (4) services provided by a state party employee who
17 devotes over 25% of his or her time during a given month to activities in connection with a

⁵ BCRA and the Commission's rules also restrict Federal candidates and officeholders in their ability to raise and spend funds in connection with an election for Federal office, including funds for any Federal election activity. See 2 U.S.C. § 441i(e)(1)(A) and 11 C.F.R. § 300.61. One apparent exception to this rule is that candidates may make donations of their own personal funds, solely at their own discretion and using no funds solicited or raised from others, to organizations intending to engage in FEA as long as the organization is not a political committee, has not been established, financed, maintained or controlled by the candidate, and has not received amounts from the candidate so large that they comprise a substantial percentage of the organizations receipts. See Advisory Opinion 2004-25 (Corzine I).

⁶ "GOTV activity" would apply equally to actions taken with regard to absentee balloting and early voting." Explanation and Justification on Definition of Federal Election Activity, 71 Fed. Reg. 8926, 8930 (Feb. 22, 2006). The "mere encouragement" of registering to vote or voting does not trigger the FEA funding restrictions. *Id.* at 8929; Advisory Opinion 2006-19 (Los Angeles County Democratic Party Central Committee).

1 federal election. 2 U.S.C. § 431(20)(A); 11 C.F.R. § 100.24. The third and fourth types of
2 federal election activity, e.g. public communications and salaries and wages, must be funded
3 solely with federal funds. 2 U.S.C. § 441i(b); 11 C.F.R. § 300.33(c). The first and second types
4 of federal election activity, e.g. voter registration and voter identification/get-out-the-vote, can be
5 allocated between Levin funds and federal funds. 2 U.S.C. § 441i(b); 11 C.F.R. § 300.33(a). A
6 state party committee may not use funds transferred to it from other party committees as the
7 federal component of an expenditure or disbursement allocated between Levin funds and federal
8 funds. 11 C.F.R. § 300.34(a).

9 "Federal election activity" may require a state party organization to establish certain
10 types of accounts for receipts and disbursements and to maintain appropriate records for
11 Commission review. See 2 U.S.C. § 441i(b) and 11 C.F.R. § 300.30. A state party committee
12 must also report receipts and disbursements for "Federal election activity" under 2 U.S.C.
13 § 434(e)(2).

14 ASDCC's website confirms that it sponsored a vote-by-mail program. See
15 <http://www.azdem.org/contact/297/request-your-vote-by-mail-ballot-today>. The program
16 encouraged individuals to vote in advance of election day, using the postal service. Thus, it
17 would appear that the vote-by-mail campaign constitutes the type of get-out-the-vote activity
18 defined as FEA at 2 U.S.C. § 431(20)(A)(ii) and 11 C.F.R. § 100.24(b)(2) since it is a type of
19 "early voting." See 71 Fed Reg. 8930. A review of the ASDCC's state and federal disclosure

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1 reports is not conclusive as to how the committee's vote-by-mail campaign was funded.⁷
2 Nevertheless, the Chairman of the ASDCC apparently acknowledged such disbursements in
3 press accounts, linked them to Pederson,⁸ and neither Respondent denied or even addressed this
4 allegation in their responses to the complaint. Therefore, we recommend the Commission find
5 reason to believe that the Arizona State Democratic Central Committee and Rick McGuire, in his
6 official capacity as treasurer, violated 2 U.S.C. 441i(b).

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2. Use of Transferred Federal Funds for Federal Election Activity

The complaint also alleges that Pederson's donations to the ASDCC's nonfederal account
were transferred to the nonfederal accounts of other state parties in return for a transfer of federal
funds to the ASDCC's federal account. It is further alleged that the funds received by the
ASDCC through these transfers or "swaps" were used for FEA. Thus, the complaint asserts that
the swaps constituted a "deliberate scheme to circumvent" contribution limitations and resulted
in the illegal funding of FEA by funds originally derived from nonfederal donations.

The Act permits unlimited transfers between state party committees. 2 U.S.C.
§ 441a(a)(4). However, the Act and regulations place limits on how a state committee can use its
transferred receipts. Transferred funds from another state committee cannot be used as the
federal component to fund voter registration, voter identification and get-out-the-vote FEA
(types I & II FEA). 11 C.F.R. § 300.34(a)(1). Similar restrictions on the use of

⁷ The ASDCC federal reports show almost \$1,000,000 in disbursements for GOTV activities to the Strategy Group in September and October 2006, which was allocated between federal and nonfederal funds, using approximately \$200,000 in federal funds and \$750,000 in nonfederal funds. However, none of the disclosures are specifically described or linked to a "vote-by-mail" program. Reports filed with the Arizona Secretary of State reveal substantial disbursements to the Strategy Group for "candidate mailings."

⁸ See Complaint Exhibit A, ("[ASDCC Chairman] Wald said the [Pederson] money is being used for programs including candidate training and a vote-by-mail campaign").

1 transfers are not expressly set forth for other types of FEA, and presumably, therefore,
2 transferred funds can be used for types III & IV FEA.⁹ See 2 U.S.C. § 441a(a)(4).

3 A state party must raise by itself the federal component of an expenditure allocated
4 between federal funds and Levin funds (amounts raised pursuant to the limitations at 2 U.S.C.
5 § 441i(b)(2)). *Id.* See Explanation and Justification on Prohibited and Excessive Contributions:
6 Nonfederal Funds or Soft Money, 67 Fed. Reg. 49064, 49099-49100 (July 29, 2002). To ensure
7 compliance with this provision, which is also known as the "homegrown" requirement, the
8 regulations authorize committees to establish separate accounts to segregate the transfers it has
9 received or to use a reasonable accounting method which demonstrates it has only used
10 homegrown funds for its federal/Levin allocations. 11 C.F.R. § 300.34(a)(2).¹⁰

11 The restrictions on state party transfers imposed by BCRA on types I & II FEA were
12 challenged by the plaintiffs in the *McConnell* case. Plaintiff claimed the restrictions were
13 unconstitutional because they unjustifiably burdened associational rights among party
14 committees. The *McConnell* court rejected the argument and concluded that there exists a
15 "strong anticircumvention [government] interest" and that "restrictions on the use, transfer, and
16 raising of Levin funds are justifiable anticircumvention measures." *McConnell v. FEC*, 540
17 U.S. 93, 171 and 173 (2003). The Court explained "without the ban on transfers of Levin funds
18 among state committees, donors could readily circumvent the \$10,000 limit on contributions to
19 a committee's Levin account by making multiple \$10,000 donations to various committees that

⁹ Respondents point to this distinction in support of its argument that BCRA perhaps did not intend to ban "swaps" which resulted in the use of transferred funds for types III & IV FEA. However, even if the transfers, standing alone, are permissible, an effort to use the transfer rules to effect a circumvention of contribution limits would not be permissible.

¹⁰ Any amounts raised pursuant to the limitations at 2 U.S.C. § 441i(b)(2) ("Levin funds") cannot be transferred. 11 C.F.R. § 300.31(a) ("Levin funds expended or disbursed ... must be raised solely by the committee that expends or disburses them."). There is no allegation here that Levin funds were transferred.

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1 could then transfer the donations to the committee of choice.” *Id.* at 171-72. BCRA’s
2 prohibition on the transfer of hard money by a national, state, or local committee to help fund
3 the allocable hard-money portion of a separate state or local committee’s Levin expenditures
4 was also challenged and according to the Court “present[ed] a closer question” because the
5 “purported [government] interest is weak” because the overall ban on soft money “already
6 polices attempts by national parties to engage” in transfers. *Id.* at 172. Nevertheless, on this
7 issue too, the Court concluded that “the strong anticircumvention interest” vindicated the
8 restrictions. *Id.* at 173.

9 BCRA’s legislative history also suggests that a concern over circumvention of
10 contribution limitations was the impetus for the transfer ban. *See* 148 Cong.Rec. S1529 (daily
11 ed. March 5, 2002) (Analysis of Changes Proposed by Senator McConnell to Pending
12 Campaign Finance Reform Legislation, introduced by Senator McCain) (purpose of restrictions
13 on transfers of monies for Levin activities to state and local party committees is “to help
14 prevent the federal soft money system from being shifted to the state level.”).¹¹

15 Under FECA and the Commission’s implementing regulations, state parties are entitled to
16 make transfers and transferred funds can be used for type III FEA (certain public
17 communications), type IV FEA (certain State party salaries and wages), and any other activity
18 for the purpose of influencing a Federal election, except for the federal component of types I and
19 II FEA. Given the fact that BCRA and its implementing regulations sanction one-way transfers
20 for use in funding public communications, there is no basis on which to conclude that BCRA

¹¹ The court rulings and legislative findings concerning transfers of Levin funds are consistent with the purposes of the “soft money” ban of section 441i, which Congress concluded “represents a balanced approach which addresses the very real danger that Federal contribution limits could be evaded by diverting funds to State and local parties, which then use those funds for Federal election activity.” 148 Cong.Rec. S2096-02 (daily ed. March 6, 2002) (statement of Sen. McCain).

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1 imposed a general wide-ranging ban on "swaps" that result in the use of funds for public
2 communications. Nevertheless, as the *McConnell* court and the legislative history suggest,
3 transfers between state party committees are suspect to the extent they may involve efforts to
4 circumvent contribution limitations and the restrictions on raising Levin funds for FEA and
5 prohibitions on using nonfederal funds for FEA.¹² Thus, while all "swaps" are not explicitly
6 impermissible under the Act, they may not be used to circumvent contribution limitations and the
7 restrictions on using nonfederal funds for FEA.

8 In this case, the available information provides support for the theory that the swaps may
9 have been an effort by the ASDCC and Pederson to circumvent the Act's contribution
10 limitations. At least \$94,000 of Mr. Pederson's \$1,300,000 donation to the ASDCC nonfederal
11 account can be directly traced to "swaps." Clearly, Mr. Pederson could not have contributed
12 \$94,000 directly to the ASDCC federal account without violating the contribution limitations.
13 Although Pederson's affidavit states that his contributions were never made "with the request,
14 knowledge, intention, or expectation" that the funds would be swapped, this may only confirm

¹² In support of their argument that "exchanges" of federal for nonfederal funds should be viewed as independent, permissible transactions, Respondents cite to Advisory Opinion 2006-33, issued to the National Association of Realtors' ("NAR"). In AO 2006-33, the Commission approved NAR's use of corporate treasury funds for an incentive program to encourage its state affiliates' participation in the NAR's PAC. NAR proposed to pay its affiliates an unrestricted cash bonus if their members' contributions to the NAR PAC met certain fundraising goals. Respondents argue that, in effect, the NAR proposal "exchanged" corporate treasury funds for member federal contributions to the NAR PAC. The AO itself did not include extensive justification for the decision to allow the transaction, and to that extent appears to provide little guidance. The Respondents point to a concurring opinion issued by two Commissioners which emphasized that since the NAR's incentive payments were paid to the NAR affiliate organizations, and not to the voluntary individual donors to the PAC, an impermissible exchange (e.g. a reimbursement to the donors) was not made. Another concurring opinion focused on the fact that NAR, as a corporation, was permitted under Commission regulations to use corporate funds for the PAC's establishment, administration, and solicitation, and the payments were merely made for that purpose. In any event, AO 2006-33 appears to have limited application to the ASDCC transfers since NAR is not a state party committee and the opinion did not analyze the NAR transactions in the context of BCRA's soft money ban and FEA spending rules. Further, BCRA imposed various new requirements on state party committees, including limits on how Levin funds, a form of "soft money," could be used. However, similar restrictions were not placed on separate segregated funds, such as the NAR PAC, suggesting that Congress views separate segregated funds as distinct from state party committees, thus further limiting the relevance of the NAR AO.

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1 that he did not know about the actual "swaps." It does not exclude the possibility that he
2 intended his donations to be used for FEA either directly or through whatever other means
3 available, as demonstrated by the use of funds derived from his direct donations to conduct the
4 vote-by-mail program discussed *supra*. As a candidate in a federal election in Arizona in 2006,
5 Pederson would necessarily benefit from any FEA conducted by the ASDCC during the 2006
6 election cycle. Further, his former role in the leadership at the ASDCC suggests that he had
7 familiarity with the funding of ASDCC's activities and how his donations may be used. Finally,
8 the fact that Pederson seems to have earmarked some of his ASDCC donations for a specific
9 purpose (i.e. for the headquarters rent payment) may indicate a pattern of encumbrances on his
10 donations.

11 Based on this information, it is reasonable to conclude that the transactions may have
12 been an effort by the ASDCC to circumvent federal contribution limitations and FEA restrictions
13 governing its federal account by receiving funds into its nonfederal account, which was not
14 encumbered by such limitations. The transfers therefore, would result in the sort of
15 circumvention of federal contribution limits that BCRA sought to prevent. Further, the
16 prevention of such transfers appears to promote the "strong anticircumvention [government]
17 interest" validated by the *McConnell* court. Therefore, the ASDCC's expenditures for FEA
18 funded with money derived through "swaps" constitutes an additional basis for the Commission
19 to find reason to believe that the Arizona State Democratic Central Committee and Rick
20 McGuire, in his official capacity as treasurer, violated 2 U.S.C. 441i(b).

21 We recommend that the Commission take no action at this time with respect to Jim
22 Pederson, and his authorized committee, Pederson 2006, and Jeff Marella, in his official capacity
23 as treasurer, and instead focus initially on the ASDCC. At this time, there is little evidence to

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1 suggest that Pederson 2006 was involved in these transactions. Further, while Jim Pederson was
2 obviously involved in the transactions, we believe an investigation focused initially on the
3 ASDCC could ascertain whether the ASDCC received instructions concerning the Pederson
4 donations and establish how it used the funds. The results of that inquiry may help determine
5 whether an investigation into a donor to the committee (*i.e.* Mr. Pederson) is required. Finally,
6 we recommend no action at this time with respect to the Arizona Democratic Party-North
7 Carolina Account, which was an entity controlled by the ASDCC and which did not appear to
8 independently take actions that would result in violations of the Act. *See supra* fn. 2.

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10 This Office seeks authorization to issue subpoenas for answers to written questions,
11 production of documents, and depositions directed to the ASDCC and witnesses in this matter.

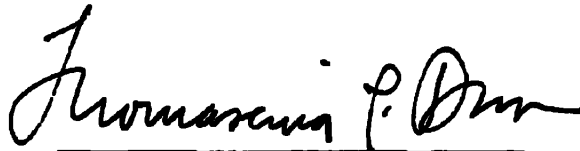
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21 Accordingly, this Office requests that the
22 Commission authorize the use of compulsory process in this matter, including the issuance of
23 interrogatories, document subpoenas, and deposition subpoenas, as necessary.

IV. RECOMMENDATIONS

1. Find reason to believe that the Arizona State Democratic Central Committee, and Rick McGuire, in his official capacity as treasurer, violated 2 U.S.C. § 441i(b);
2. Take no action at this time with respect to the Arizona Democratic Party-North Carolina Account, Pederson 2006, and Jeff Marella, in his official capacity as treasurer, and Jim Pederson;
3. Approve the attached Factual and Legal Analysis;
4. Authorize the use of compulsory process against all respondents and witnesses in this matter, including the issuance of appropriate interrogatories, document subpoenas, and deposition subpoenas, as necessary;
5. Approve the appropriate letters.

2/19/2008

Date



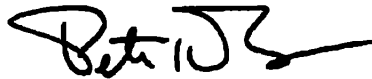
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Acting Assistant General Counsel

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First General Counsel's Report

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